

ORDINANCE NO. 2005.89

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, REPEALING CHAPTER 8 OF THE TEMPE CITY CODE, RELATING TO BUILDINGS AND BUILDING REGULATIONS, AND CHAPTER 31 OF THE TEMPE CITY CODE, RELATING TO SWIMMING POOLS, AND ADOPTING THE TEMPE ADMINISTRATIVE CODE, THE 2003 INTERNATIONAL BUILDING CODE, THE 2003 INTERNATIONAL RESIDENTIAL CODE, THE 2003 INTERNATIONAL EXISTING BUILDING CODE, THE 2003 INTERNATIONAL MECHANICAL CODE, THE STATE OF ARIZONA PLUMBING CODE, THE 2003 INTERNATIONAL FUEL GAS CODE, AND THE 1996 NATIONAL ELECTRICAL CODE; AND AMENDMENTS THERETO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Tempe City Code, Chapter 8, Buildings and Building Regulations, is hereby repealed in its entirety.

Section 2. That Tempe City Code, Chapter 31, Swimming Pools, is hereby repealed in its entirety.

Section 3. That Tempe City Code, Chapter 8, Article I, Section 8-100, **Tempe Administrative Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE I. TEMPE ADMINISTRATIVE CODE

Sec. 8-100. Adopted; where filed; amendments.

(a) That certain document known as "The Tempe Administrative Code," three (3) copies of which are on file in the office of the city clerk, and this same code and appendices are hereby referred to, adopted and made a part hereof, as if fully set out in this article.

(b) The provisions of this article, other than subsection (a) of this section, this subsection and the sections reserved at the end of this article, are amendments to the Tempe Administrative Code as now or hereafter adopted in subsection (a). All sections, chapters, etc., in this article, other than subsection (a) of this section, this subsection and the sections reserved at the end of this article, shall be considered to be both a part of this code and a part of the Tempe Administrative Code. Material encased in brackets ([.]) shall be considered to be a part of this code only, and not a part of the Tempe Administrative Code. Material encased in quotation marks (" ") shall be considered to be a part of this code and a part of the Tempe Administrative Code. Except for the sections reserved at the end of this article, provisions in this article shall be cited as Article I, **[insert references to sections, etc.]** of the Tempe City Code.

Sec. 109. Violations.

[§ 109 is hereby added as follows:]

"*109.1 Unlawful acts.* It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or building service equipment regulated by this Chapter and the technical codes, or cause same to be done, in conflict with or in violation of any of the provisions of this Chapter and the technical codes.

"*109.2 Illegal building.* Every building or portion thereof constructed without a building permit where required by this Chapter, shall be made to conform to the provisions of this Chapter and the technical codes or shall be demolished.

"*109.3 Notice of violation.* The building official is authorized to serve a notice of violation or order on the building owner, the owner's agent or person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building, structure or building service equipment in violation of the provisions of this Chapter, the technical codes or in violation of a permit or certificate issued under the provisions of this Chapter. Service of such notice shall be as described in Section 108.2.1 of this Chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

"*109.4 Prosecution of violation.* If the notice of violation is not complied within the time frame specified in the notice, the City may institute the appropriate proceeding at law, or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this Chapter or of the technical codes or of the order or direction made pursuant thereto.

"*109.5 Remedies not exclusive.* Violations of this Chapter or the technical codes are in addition to any other violation established by law, and this Chapter and shall not be interpreted as limiting the penalties, actions, or abatement procedures that may be taken by the City or other persons under the laws, ordinances or rules.

"*109.6 Violation penalties.* Any person, firm, or corporation who shall violate any of the provisions of this Chapter and the technical codes may be subject to one or more of the penalties as prescribed in the Tempe City Code, Chapter 21.

"Civil sanction: A fine of not less than one hundred dollars (\$100) nor more the one thousand dollars (\$1000) but total fines shall not exceed two thousand dollars (\$2000) per day for each property.

"Criminal misdemeanor: If found guilty of a class one misdemeanor and upon conviction shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500) or by imprisonment in the City jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

"Separate Offense: Each day any violation is continued or the failure to perform any act or duty required by this section shall constitute a separate violation or offense."

Section 4. That Tempe City Code, Chapter 8, Article II, **International Building Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE II. INTERNATIONAL BUILDING CODE

Sec. 8-200. Adopted; where filed; amendments.

(a) That certain document known as "The International Building Code, 2003 Edition" which has been published as a code in book form by the International Code Council chapters two through thirty-five and appendix chapters C, I, and J inclusive, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 5. That Tempe City Code, Chapter 8, Article III, **International Residential Building Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE III. INTERNATIONAL RESIDENTIAL CODE

Sec. 8-300. Adopted; where filed; amendments.

(a) That certain document known as "The International Residential Code, 2003 Edition" which has been published as a code in book form by the International Code Council chapters two through ten, twelve through forty-three, and appendix chapters A, B, C, G, H, J and K inclusive, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 6. That Tempe City Code, Chapter 8, Article IV, **International Existing Building Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE IV. INTERNATIONAL EXISTING BUILDING CODE

Sec. 8-400. Adopted; where filed; amendments.

(a) That certain document known as "The International Existing Building Code, 2003 Edition" which has been published as a code in book form by the International Code Council chapters two through fourteen and appendix chapters A and B, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 7. That Tempe City Code, Chapter 8, Article V, **International Mechanical Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE V. INTERNATIONAL MECHANICAL CODE

Sec. 8-500. Adopted; where filed; amendments.

(a) That certain document known as "The International Mechanical Code, 2003 Edition" which has been published as a code in book form by the International Code Council chapters two through nine, and chapters eleven through fifteen, and appendix chapters A inclusive, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 8. That Tempe City Code, Chapter 8, Article VI, **State of Arizona Plumbing Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE VI. STATE OF ARIZONA PLUMBING CODE

Sec. 8-600. Adopted; where filed; amendments.

(a) That certain document known as "The Arizona State Plumbing Code," as adopted by the Arizona Uniform Plumbing Code Commission, and which has been published as a code in book form by the International Association of Plumbing and Mechanical Officials, with amendments as published by the Arizona Secretary of State in the Arizona Administrative Code, Title 4, Chapter 48, is hereby adopted as the Plumbing Code of the City of Tempe and made a part of this chapter the same as though said code was specifically set forth in full herein, with changes and amendments to the code as set forth in subsection B. Three copies of said code shall be filed in the office of the city clerk and kept available for public use and inspection.

(b) As permitted by Arizona Revised Statutes Sections 9-805(B) and 41-619, the International Plumbing Code, 2003 edition, as published by the International Code Council, three (3) copies with amendments of which are on file in the office of the city clerk, may be used, on an individual project basis, as a substitute and variance where deemed appropriate by the Building Official.

Section 9. That Tempe City Code, Chapter 8, Article VII, **International Fuel Gas Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE VII. INTERNATIONAL FUEL GAS CODE

Sec. 8-700. Adopted; where filed; amendments.

(a) That certain document known as "The International Fuel Gas Code, 2003 Edition" which has been published as a code in book form by the International Code Council chapters two through seven, and appendix chapters A, B and C inclusive, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 10. That Tempe City Code, Chapter 8, Article VIII, **National Electrical Code adopted; where filed; amendments.** is hereby adopted as follows:

ARTICLE VIII. NATIONAL ELECTRICAL CODE

Sec. 8-800. Adopted; where filed; amendments.

(a) That certain document known as "The National Electrical Code, 1996 Edition" which has been published as a code in book form by the National Fire Protection Association entitled "National Electrical Code, N.F.P.A. No. 70-1996 Edition," Article 90 and chapters one through eight inclusive, three (3) copies with amendments of which are on file in the office of the city clerk.

Section 11. All ordinances, code sections, and parts of ordinances and code sections in conflict herewith, are expressly repealed. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 12. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption. This Ordinance shall become effective and have application to all buildings and structures for which permits have been applied for on or after January 2, 2006, except that a customer may elect to utilize the previous provisions of Chapter 8 as were in effect since July 22, 1999, for permits submitted during the period of January 2, 2006 through April 3, 2006.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,
this _____ day of _____, 2006.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney